

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of the San Diego Metropolitan Transit Development Board and the City of San Diego for an order authorizing construction of an at-grade crossing on two existing light rail vehicle tracks at Fenton Parkway in the City of San Diego, California.

Application 02-04-050  
(Filed April 30, 2002;  
Supplement filed  
January 26, 2004)

**O P I N I O N****Summary**

This decision grants San Diego Metropolitan Transit Development Board's (MTDB) and City of San Diego's (City) request to construct, as part of the proposed Mission City Parkway Project (Project), an at-grade highway-rail crossing on two existing light rail vehicle (LRV) tracks at Fenton Parkway in San Diego, San Diego County.

**Discussion**

City proposed to extend Fenton Parkway across two existing San Diego Trolley, Inc. (SDTI) LRV tracks, as part of the City's proposed Project. The Project also includes the construction of Mission City Parkway, a new two-lane major collector street with a 45-mile-per-hour design speed. This proposed roadway will extend north from Camino Del Sol North via a bridge, across San Diego River and connect with the existing Fenton Parkway. Currently, Fenton Parkway terminates in a cul-de-sac just north of the existing SDTI tracks. The

SDTI Light Rail Transit (LRT) system presently operates within an exclusive MTDB right-of-way.

MTDB will construct the new at-grade highway-rail crossing (crossing) of Fenton Parkway and the SDTI tracks. The new crossing will be adjoined to the existing Fenton Parkway LRT Station, approximately 350 feet north of the San Diego River, and along the existing Fenton Parkway and proposed Mission City Parkway road alignments. MTDB and SDTI will construct a parking lot between the Fenton Parkway LRT Station and the San Diego River to accommodate park-and-ride patrons. MTDB and SDTI will maintain the crossing and associated warning devices.

The warning devices at the proposed crossing at Fenton Parkway will consist of two CPUC Standard No. 9s (flashing light signals with automatic gates, as defined in Commission General Order (GO) 75-C). Raised medians will separate each direction of the two-lane roadway. Shown in Appendix A, attached to the order, are detailed drawings of the typical warning devices and crossing section. Shown in Appendix B, attached to the order, is a detailed drawing of the proposed crossing design.

The LRT currently operates at 15-minute headways. "I" Street will intersect the new Fenton Parkway/Mission City Parkway extension approximately 30 feet south of the proposed crossing and provide access to Stadium Road and the Qualcomm Stadium parking lot to the east. Due to the proposed crossing's proximity to Qualcomm Stadium and the associated "I" Street, City and MTDB will take additional measures to control the flow of vehicular and LRT traffic at the proposed crossing during events at the stadium. During such times, the LRT will operate at four-minute headways. The automatic gates at the crossing will remain in a horizontal position to deny

vehicular access across the LRV tracks during an event. San Diego Police Department (SDPD) will deny access, by means of installing temporary traffic barricades, across the LRV tracks to Fenton Parkway traffic headed south. The barricades will direct motor vehicles to turn around in a designated area located within the raised median break adjacent to the proposed driveway that will access an existing shopping center and library. City will divert traffic headed north on the proposed Mission City Parkway to the east along "I" Street and into the stadium parking lot by means of a temporary traffic barricade (placed approximately 15 feet south of the LRV tracks) and coordinated by SDPD. City prepared a Traffic Management Plan to address stadium events.

When there are no events at the stadium, the automatic gates at the crossing will operate as specified in GO 75-C and City will eliminate access to "I" Street by means of a permanent locked gate to deny vehicular turning movements from the proposed Mission City Parkway and Fenton Parkway.

At the proposed crossing, MTDB and City request a deviation from Section 7.8 of GO 75-C, which requires the constant ringing of bells at crossings when passing trains activate the warning devices. To reduce noise at the proposed crossing, MTDB and City request to modify the warning devices so that bells sound only during the initial warning and descent stages until the automatic gates are within 10 degrees of the horizontal position.

At the proposed crossing, MTDB requests an exemption from GO 72-B to allow the use of a rubber-rail interface within the flangeway of the proposed concrete slab crossing surface, as described in GO 72-B, Standard No. 8. By reducing the flangeway gap, the interface, which will reduce the flangeway width from the maximum 2 ½-inch width to an approximate 1-inch width, is necessary to enhance safety for bicyclists and pedestrians, including persons in

wheelchairs; to provide an improved automotive ride; and to reduce maintenance costs.

MTDB is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA, as amended in 1982) as stated in Public Resources Code Section 21000 et seq. On November 10, 1992, MTDB filed a Notice of Determination (NOD) with the San Diego County Clerk. The NOD found – for the “Mission Valley West Light Rail Transit Project – Modification to provide for undercrossing at Morena Boulevard” – “the project, as modified, will not have a significant effect on the environment.” MTDB prepared, pursuant to the provisions of CEQA, an Environmental Impact Report (EIR) for this project. MTDB completed the NOD on October 27, 1992. In the NOD, MTDB determined that the project will not have significant adverse effects on the environment. A copy of the NOD is included in Appendix C attached to the order.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency’s Environmental Impact Report of Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities that a responsible agency must conduct are contained in CEQA Guideline Section 15096.

The Commission reviewed and considered the lead agency’s environmental documents and finds them adequate for our decision-making purposes. Safety, transportation, and noise are within the scope of the Commission’s permitting process. The NOD did not identify environmental impacts related to safety, transportation, and noise.

As there were no identified environmental impacts related to noise, we find that there is no need to grant MTDB's request for a deviation from Section 7.8 of GO 75-C to allow MTDB to silence the bells on the automatic warning devices until the automatic gates are within 10 degrees of the horizontal position. Due to the adjacent Fenton Trolley Station, residential community and surrounding commercial establishments, we believe that the continuous sounding of the bells on the automatic warning devices is essential for public safety by providing an audible warning to pedestrians in the area.

MTDB may resubmit its request for a deviation from Section 7.8 of GO 75-C when MTDB places the proposed crossing into operation provided that MTDB can document a need for such an exemption. We would consider granting such an exemption after the Commission staff evaluates MTDB's request and supporting data.

MTDB's environmental documents are adequate for our decision-making purposes and MTDB reasonably concluded that the proposed crossing would not have a significant effect on the environment. Accordingly, we adopt the NOD for purposes of our project approval.

MTDB states that it is not feasible to grade-separate the crossing due to the proximity of proposed crossing to the adjacent flood control channel (San Diego River), existing elevations of the LRT track and station, the presence of existing underground sewer and storm drain systems, current right-of-way constraints, non-compliance with street design standards, overall traffic control issues, and conflicts with existing commercial and multi-family ingress and egress points. The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) concurs with MTDB's assertion in the Application that a separation of grades of the proposed crossing would be impracticable.

RCES reviewed MTDB's request for an exemption from GO 72-B to allow the use of a rubber-rail interface within the flangeway of the proposed concrete slab crossing surface, as described in GO 72-B, Standard No. 8. RCES concurs with MTDB's determination that the interface will provide an improved automotive ride and will reduce maintenance costs. RCES determined that the interface, which will reduce the flangeway width from the maximum 2 ½-inch width to an approximate 1-inch width, will enhance safety for bicyclists and pedestrians, including persons in wheelchairs, by reducing the flangeway gap.

RCES staff inspected the site of the proposed crossing. After reviewing the need for and the safety of the proposed crossing, RCES recommends that the Commission grant MTDB'S request.

The Application is in compliance with the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad. Shown in Appendix A attached to the order are details of the proposed warning device, crossing section, and CPUC Crossing Number. Shown in Appendix B attached to the order are detailed drawings of the proposed crossing.

In Resolution ALJ 176-3088, dated May 16, 2002, and published in the Commission Daily Calendar on May 17, 2002, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed, this preliminary determination remains correct. Given these developments a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3088.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the

otherwise applicable 30-day period for public review and comment is being waived.

### **Assignment of Proceeding**

Richard Clark is the assigned Examiner in this proceeding.

### **Findings of Fact**

1. Notice of the Application was published in the Commission's Daily Calendar on May 7, 2002. There are no unresolved matters or protests; a public hearing is not necessary.

2. MTDB requests authority, under Public Utilities Code Sections 1201-1205, to construct the proposed crossing of Fenton Parkway of MTDB's SDTI LRT tracks.

3. Public convenience and necessity require construction of the proposed crossing.

4. Public safety requires installation at the proposed crossing of two CPUC Standard No. 9 warning devices as further described in GO 75-C.

5. MTDB will ensure that the automatic gates at the crossing shall remain in a horizontal position to deny vehicular access across the LRV tracks during events at Qualcomm Stadium. When there are no events at Qualcomm Stadium, the automatic gates at the crossing will operate as specified in GO 75-C and City will have the responsibility to eliminate access to "I" Street by means of a permanent locked gate to deny vehicular turning movements from the proposed Mission City Parkway and Fenton Parkway.

6. When there are events at Qualcomm Stadium, City, through its Police Department and by the installation of temporary traffic barricades a minimum of 15 feet north of the LRV tracks, will have the responsibility to deny LRV track access to vehicular traffic on southerly Fenton Parkway. City also will have the

responsibility to ensure that the barricades require motor vehicles to turn around in a designated area located within the raised median break adjacent to the proposed driveway that will access an existing shopping center and library. City, furthermore, will divert traffic headed north on the proposed Mission City Parkway to the east along “I” Street and into the stadium parking lot by using temporary traffic barricades, placed a minimum of 15 feet south of the LRV tracks and coordinated by City’s Police Department.

7. MTDB is the lead agency for this project under CEQA, as amended.

8. MTDB filed a NOD with the San Diego County Clerk, prepared an EIR, and found – for the “Mission Valley West Light Rail Transit Project – Modification to provide for undercrossing at Morena Boulevard” – “the project, as modified, will not have significant effect on the environment.” Since the modification will not have any new significant adverse effects on the environment, and does not otherwise fall within the circumstances of Public Resources Code Section 21166, no subsequent EIR or supplement to the prior EIR is required. Mitigation measures were not made a condition of the approval of the project. A Statement of Overriding Considerations was not adopted for the project.

9. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency’s NOD and EIR.

10. Safety, transportation, and noise are within the scope of the Commission’s permitting process.

11. The lead agency did not identify environmental impacts related to safety, transportation, and noise.

12. As there were no identified environmental impacts related to noise, there is no need to grant MTDB’s request for a deviation from Section 7.8 of GO 75-C.

Due to the adjacent Fenton Trolley Station, residential community and surrounding commercial establishments, the continuous sounding of the bells on the automatic warning devices is essential for public safety by providing an audible warning to pedestrians.

13. MTDB requested an exemption from GO 72-B to allow the use of a rubber-rail interface within the flangeway of the proposed concrete slab crossing surface, as described in GO 72-B, Standard No. 8. By reducing the flangeway gap, the interface, which will reduce the flangeway width from the maximum 2 ½-inch width to an approximate 1-inch width, will enhance safety for bicyclists and pedestrians, including persons in wheelchairs; provide an improved automotive ride; and reduce crossing surface maintenance costs.

### **Conclusions of Law**

1. The Application is uncontested and a public hearing is not necessary.
2. The Application should be granted as set forth in the following order.

## **O R D E R**

### **IT IS ORDERED** that:

1. San Diego Metropolitan Transit Development Board (MTDB) and City of San Diego (City) are authorized to construct the proposed Fenton Parkway at-grade highway-rail crossing (crossing), identified as CPUC Crossing No. 81MV-8.71, over MTDB's San Diego Trolley, Inc. light rail transit tracks in San Diego, San Diego County, at the location, and substantially as described in and as shown by plans attached to the Application and as shown by plans attached to the Application and as shown by plans in Appendices A and B attached to this order.

2. MTDB shall install two Standard No. 9 (flashing light signals with automatic gates, as described in General Order (GO) 75-C) warning devices, as described in Appendix A attached to this order.

3. MTDB shall ensure that the automatic gates at the crossing shall remain in a horizontal position to prevent vehicular access across the light rail vehicle (LRV) tracks during events at Qualcomm Stadium. The automatic gates shall operate as specified in GO 75-C when there are no events at Qualcomm Stadium.

4. The City shall provide the following traffic controls and operations during pre-event, event and post-events phases at Qualcomm Stadium, as determined in its Traffic Management Plan:

a. Install temporary barricades a minimum of 15 feet north of the LRV tracks to prevent vehicles traveling southbound on Fenton Parkway across the tracks. Motorists that encounter the barricades shall be diverted in the opposite direction through a median break on Fenton Parkway adjacent to the proposed access driveway for the existing shopping center and library.

b. Install temporary barricades a minimum of 15 feet south of the LRV tracks to direct vehicles traveling northbound on Mission City Parkway to eastbound "I" Street and the Qualcomm Stadium parking lot.

5. When there are no events at Qualcomm Stadium, the City shall eliminate access to "I" Street by means of a permanent locked gate that will deny vehicular turning movements from the proposed Mission City Parkway and Fenton Parkway.

6. MTDB's request for a deviation from Section 7.8 of GO 75-C is denied. MTDB shall ensure that the bells sound continuously during each activation of the Standard No. 9 warning devices and that the automatic gates at the crossing shall remain in a horizontal position to deny vehicular access across the LRV

tracks, except during events at Qualcomm Stadium as provided in Ordering Paragraph 3.

7. MTDB is authorized an exemption from GO 72-B to allow the use of a rubber-rail interface within the flangeway of the proposed concrete slab crossing surface, as described in GO 72-B, Standard No. 8. In all other respects, GO 72-B shall remain in full force and effect.

8. Clearances and walkways shall conform to GO 143-B.

9. MTDB and SDTI shall bear maintenance costs in accordance with an agreement between MTDB and San Diego Trolley, Inc. (SDTI). MTDB and City shall bear construction costs in accordance with an agreement between MTDB and City. Should MTDB, SDTI, and City fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

10. Within 30 days after completion of the work under this order, MTDB shall notify Consumer Protection and Safety Division – Rail Crossings Engineering Section in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations) of the completion of the authorized work.

11. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. The Commission may revoke or modify authorization if public convenience, necessity, or safety so require.

12. The Application is granted as set forth above.

13. Application 02-04-050 is closed.

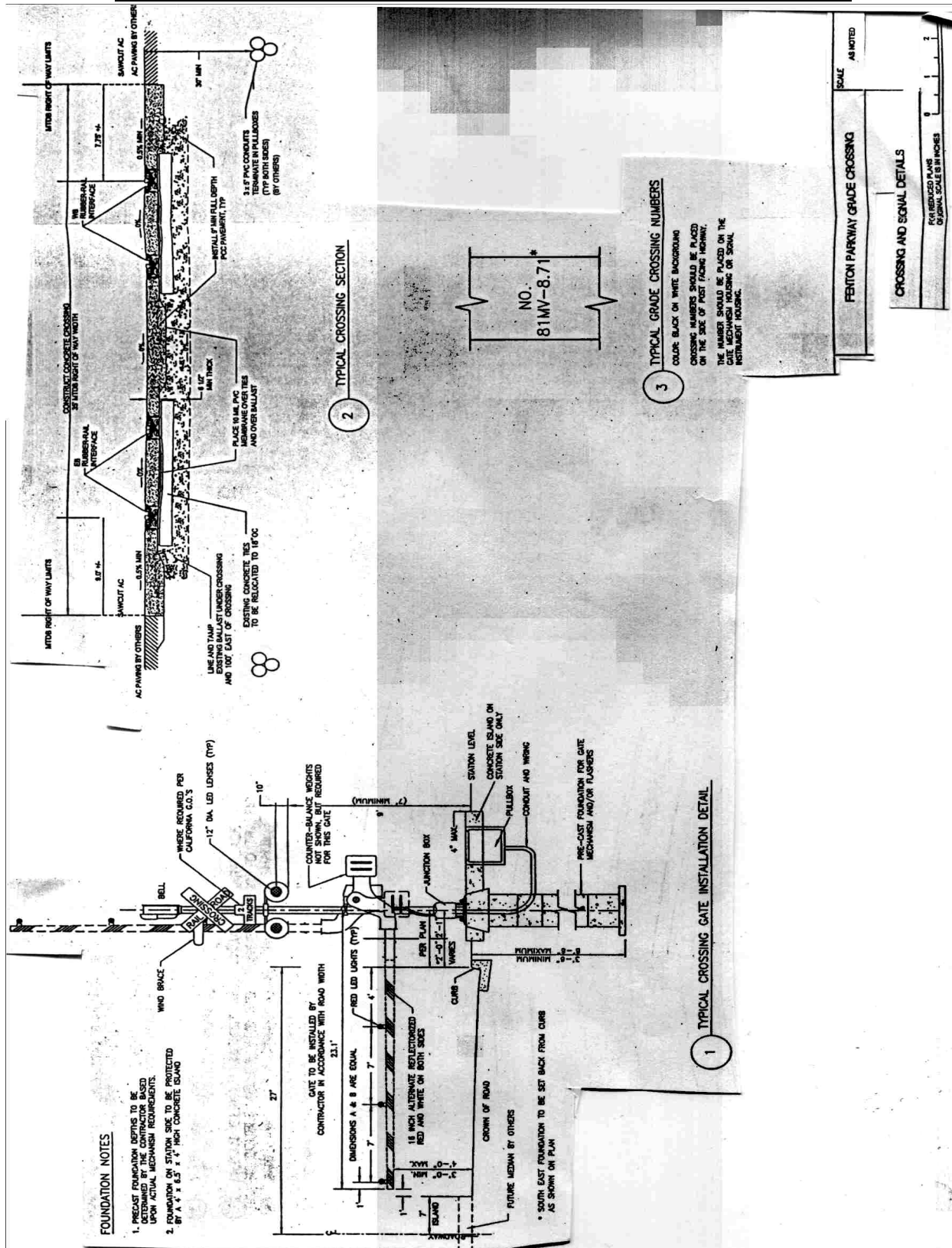
This order becomes effective 30 days from today.

Dated \_\_\_\_\_, at San Francisco, California.



## APPENDIX A

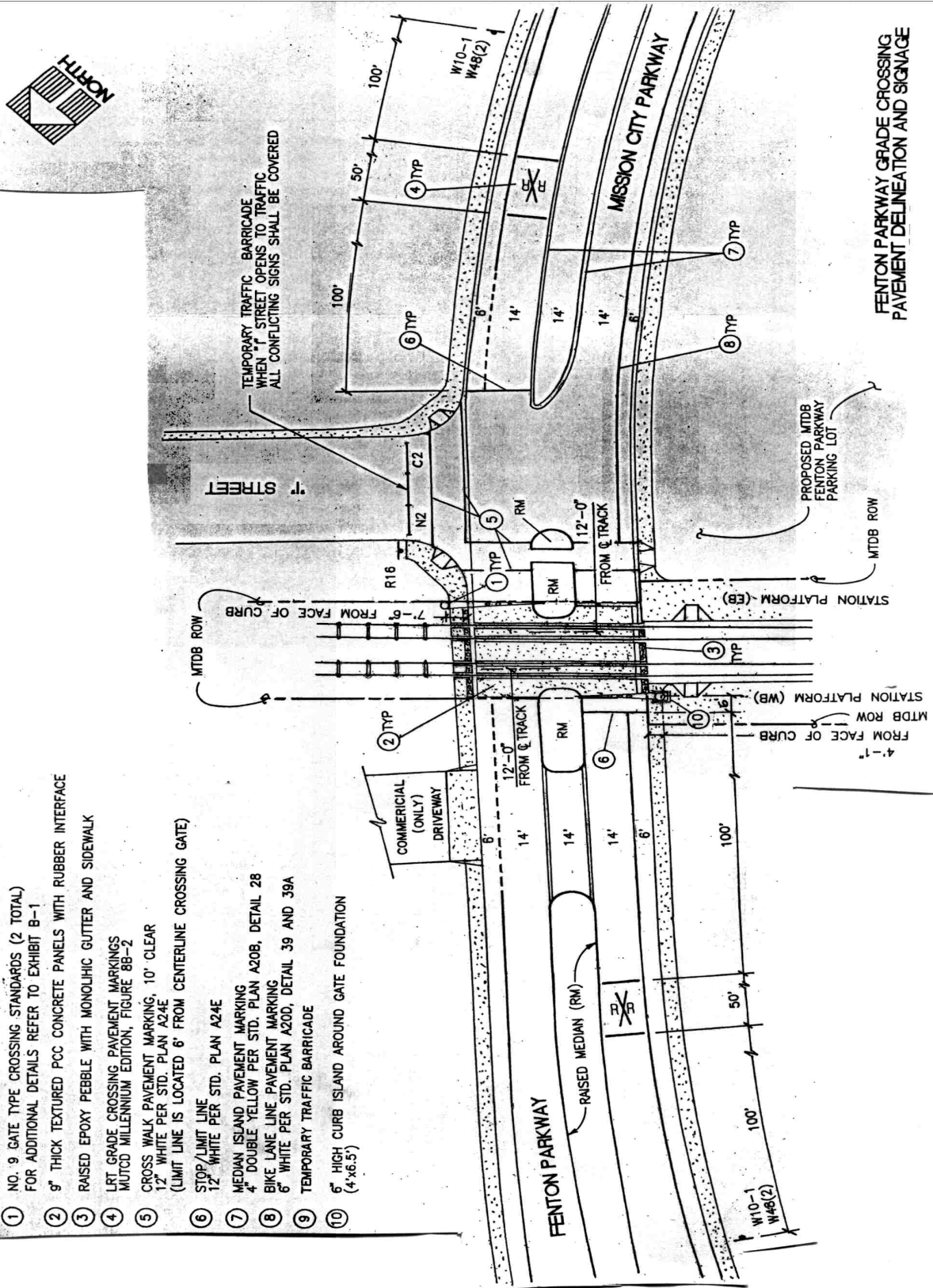
### CROSSING WARNING DEVICES AND CROSSING SECTION

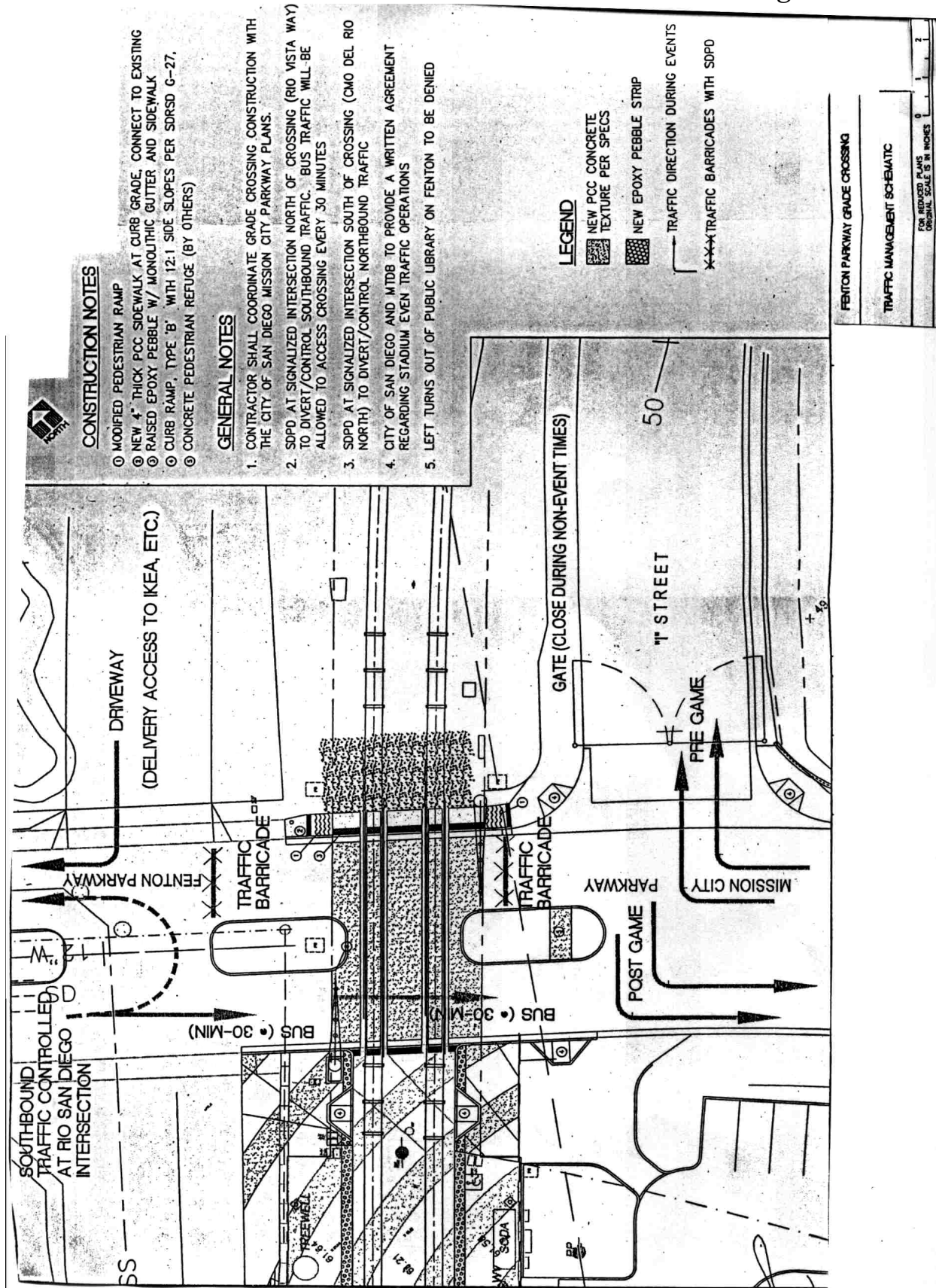


## APPENDIX B PLANS

### CONSTRUCTION NOTES:

- 1 NO. 9 GATE TYPE CROSSING STANDARDS (2 TOTAL)  
FOR ADDITIONAL DETAILS REFER TO EXHIBIT B-1
- 2 8" THICK TEXTURED PCC CONCRETE PANELS WITH RUBBER INTERFACE
- 3 RAISED EPOXY PEBBLE WITH MONOLITHIC GUTTER AND SIDEWALK
- 4 LFT GRADE CROSSING PAVEMENT MARKINGS  
MUTCD MILLENNIUM EDITION, FIGURE 8B-2
- 5 CROSS WALK PAVEMENT MARKING, 10' CLEAR  
12" WHITE PER STD. PLAN A24E  
(LIMIT LINE IS LOCATED 6' FROM CENTERLINE CROSSING GATE)
- 6 STOP/LIMIT LINE  
12" WHITE PER STD. PLAN A24E
- 7 MEDIAN ISLAND PAVEMENT MARKING  
4" DOUBLE YELLOW PER STD. PLAN A20B, DETAIL 28
- 8 BIKE LANE LINE PAVEMENT MARKING  
6" WHITE PER STD. PLAN A20D, DETAIL 39 AND 39A
- 9 TEMPORARY TRAFFIC BARRICADE
- 10 6" HIGH CURB ISLAND AROUND GATE FOUNDATION  
(4"x6.5')





APPENDIX C  
ENVIRONMENTAL DOCUMENT  
NOTICE OF DETERMINATION

TO: Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

County Clerk  
County of San Diego  
P.O. Box 1750  
San Diego, CA 92101-2422

FROM: San Diego Metropolitan Transit  
Development Board  
1255 Imperial Avenue, Suite 1000  
San Diego, CA 92101

By Annette J. Evans, Clerk

NOV 10 1992

BY

DEPUTY

Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.  
**SUBJECT**

Mission Valley West Light Rail Transit Project - Modification to provide for undercrossing at Morena Boulevard  
**PROJECT TITLE**

90010961	Metropolitan Transit Development Board	(619) 231-1466
<b>STATE CLEARINGHOUSE NUMBER</b>	<b>LEAD AGENCY</b>	<b>AREA CODE/TELEPHONE/EXTENSION</b>
(If submitted to Clearinghouse)		

San Diego, California; San Diego County  
**PROJECT LOCATION** (Include county)

**PROJECT DESCRIPTION:**

This is to advise that the San Diego Metropolitan Transit Development Board  
(LEAD AGENCY)

has approved the above-described modification to the project on October 22, 1992, and has made the following determinations regarding the above-described modification to the project:

1. The project, as modified, will not have a significant effect on the environment.
2. An Environmental Impact Report (EIR) was previously prepared for this project, pursuant to the provisions of CEQA. Since this modification will not have any new significant adverse effects on the environment, and does not otherwise fall within the circumstances of Public Resources Code § 21166, no subsequent EIR or supplement to the prior EIR is required.
3. Mitigation measures were not made a condition of the approval of the project.
4. A statement of Overriding Considerations was not adopted for this project.
5. Findings were not made pursuant to the provisions of CEQA.

This is to certify that the final EIR, with comments and responses and record of project approval, including the record of approval for the modification, is available to the general public at:

1255 Imperial Avenue, Suite 1000, San Diego, CA 92101 (contact person: Harvey Estrada)

SIGNATURE (Public Agency)	October 27, 1992	General Manager
By: <u>[Signature]</u>	DATE	TITLE
Date received for filing at OPR:		

FILED IN THE OFFICE OF THE COUNTY CLERK,  
SAN DIEGO COUNTY ON NOV 10 1992  
POSTED NOV 10 1992 REMOVED DEC 10 1992  
RETURNED TO AGENCY ON 12/11/92  
DEPUTY [Signature]